

REPORT OF THE FINANCIAL REMEDIES WORKING GROUP

ANNEX 2

PILOT SCHEME FOR AN ACCELERATED FIRST APPOINTMENT PROCEDURE IN FINANCIAL REMEDY PROCEEDINGS IN THE FINANCIAL REMEDIES UNIT AT THE CENTRAL FAMILY COURT

1. This is a pilot scheme which will be reviewed at the end of October 2014. In this revised form it has been approved by Mostyn and Moor JJ on behalf of the High Court judiciary. It will not be considered for extension to the Family Court sitting elsewhere until the results of the pilot have been analysed and it has been judged to have been successful.
2. The introduction of this procedure under a pilot scheme does not derogate from the underlying philosophy of the procedure in Family Procedure Rules 2010, Part 9, and the key principle of judicial case management from an early stage in financial remedy proceedings. It is anticipated that the position for the large majority of cases will be for there to be a personally attended First Appointment where parties can hear for themselves what arguments are being advanced on their behalf, hear the judge's reaction to them and hear what has been spent on costs so far and what is likely to be spent if the dispute continues.
3. This procedure is considered to be fully compliant with all the relevant provisions of the Family Procedure Rules 2010.
4. This procedure is intended to provide a method for avoiding the personal attendance of parties and legal representatives at First Appointment hearings in the Central Family Court in a limited number of cases where the parties have been able to agree directions in advance, where personal attendance is likely to have little purpose and where the benefits of personal attendance are likely to be heavily outweighed by the costs incurred by personal attendance. An example of such a case would be where it is obvious that a particular asset – perhaps the former matrimonial home – needs to be valued before meaningful negotiations can take place and but where the facts are otherwise broadly agreed.
5. The procedure may be utilised in cases falling into Family Procedure Rules 2010, Part 9, Chapter V (in particular Children Act, Schedule 1 and Matrimonial Causes Act 1973, Section 31 applications) where both parties agree (and invite the judge to approve under Family Procedure Rules 2010, Rule 9.18A) that the Chapter IV procedure should be adopted.
6. This procedure will only be available where:-
 - (i) there is a draft Consent Order in the standard form set out in the annex below which is agreed by both parties and signed by them (or on their behalf);

- (ii) the required documents together with the signed draft Consent Order have been filed with the court by email at least 14 days prior to the date fixed for the First Appointment hearing; and
- (iii) the email has been sent to the following address:-

Email Address:

cfc.fru@hmcts.gsi.gov.uk

Marked:

FAO: Ryan Gallagher, Financial Remedy Unit (FRU)
Accelerated First Appointment Procedure
Application relating to hearing at [] on []

- (iv) a District Judge has approved the draft Consent Order in advance of the hearing.

7. The required documents for the purposes of paragraph 6(ii) are:-

- (i) the body of (but not the attachments to) each party's financial statement in Form E filed in accordance with Family Procedure Rules 2010, 9.14(1);
- (ii) each party's First Appointment documentation filed in accordance with Family Procedure Rules 2010, 9.14(5); and
- (iii) any other documentation vital to the court's ability to approve the draft consent order.

8. It is expected that an application correctly filed at the Central Family Court in accordance with this procedure will be considered by a District Judge and a response given by email (whether to approve the order or not to approve the order) at least 7 days prior to the date fixed for the First Appointment hearing. The District Judge will ordinarily not give any reasons for declining to approve the order. The District Judge may decide to contact the parties by telephone if clarification of any matters may lead to approval of the order. Orders are unlikely to be approved where provision is made for further questionnaires to be raised which the District Judge has not had the opportunity to consider. For the avoidance of doubt, if the court does not approve the draft Consent Order then the First Appointment will proceed at a hearing on the due date in the normal way and so the parties should not make arrangements on the assumption that a Consent Order will be approved. If no response has been received from the Central Family Court in accordance with

the above timescale then a request for a response should be made to the same email address above, marked “FRU”.

9. This procedure cannot be used where the parties wish to dispense with a Financial Dispute Resolution (FDR) hearing. Accordingly, a draft Consent Order must make provision for an FDR hearing. The parties may either insert the words “*on the first open FDR date after []*” or should consult with the Central Family Court list office about a specific date and insert the specific date agreed with the list office. The list office is aware that they will be asked to provide dates in accordance with this procedure and will do their best to assist the parties to identify a mutually convenient date. Formulations such as “*on a date to be fixed by counsels’ clerks in accordance with counsels’ convenience*” will not be acceptable under this procedure. FDR hearings will ordinarily be listed at either 10.00 am or 12.00 noon.
10. This procedure cannot be used where the parties wish the FDR to be heard by a High Court Judge. Parties wishing their FDR to be heard by a High Court Judge have the choice of making such an application at the First Appointment hearing or, if the circumstances are appropriate, following the President’s Guidance of 1 December 2009 (as modified on 30 April 2014).
11. The time estimate for an FDR will, save in exceptional circumstances, be one hour. If more than one hour is sought then the parties must set out in the application a detailed justification for this. The District Judge may accept the justification or exercise a discretion to reduce the time estimate to one hour.
12. In drafting a Consent Order in accordance with this procedure the parties should address issues relevant to Family Procedure Rules 2010, Rules 9.15(1),(2),(3) & (7) and, if experts are involved, Family Procedure Rules 2010, Rule 25 and Practice Direction 25D, and the directions sought must be intended to address these matters.
13. It is anticipated that the proper order for costs on any application in accordance with this procedure will be “*costs in the application*”, but other formulations may be permitted if they are agreed between the parties.

His Honour Judge O’Dwyer
District Judge Hess
2 May 2014

ANNEX

STANDARD FORM OF DRAFT CONSENT ORDER UNDER THE
ACCELERATED FIRST APPOINTMENT PROCEDURE



**In the Central Family Court
Sitting at First Avenue House
Case No:**

**[The Matrimonial Causes Act 1973]
[The Civil Partnership Act 2004]
[Schedule 1 to the Children Act 1989]**

**The [Marriage] [Civil Partnership] [Relationship]
of [] and []**

**ORDER MADE BY DISTRICT JUDGE []
AT A FIRST APPOINTMENT HEARING HEARD AS A PAPER EXERCISE
IN THE ABSENCE OF THE PARTIES UNDER THE PILOT ACCELERATED
FIRST APPOINTMENT PROCEDURE**

1. The parties and their representation

The parties are as follows:-

The applicant []
[acts in person]
[is represented by counsel, namely]
[is represented by solicitor, namely]

The respondent []
[acts in person]
[is represented by counsel, namely]
[is represented by solicitor, namely]

2. The court considered all the documentation filed with the court (by email) in accordance with the Pilot Accelerated First Appointment Procedure, that is:-
- a. the body of each party's financial statement in Form E filed in accordance with Family Procedure Rules, Rule 9.14(1);
 - b. each party's First Appointment documentation filed in accordance with Family Procedure Rules, Rule 9.14(5);
 - c. the terms of the draft consent order signed by (or on behalf of) each party;
 - d. certain other documentation vital to the court's ability to approve the draft consent order, namely [].
3. The court satisfied itself that the draft consent order contains appropriate directions to comply with Family Procedure Rules 2010, Rules 9.15(1),(2), (3) & (7).

- 4 The court noted that, up to the date of the submission of this order for approval the applicant has incurred £[] in legal costs in relation to these proceedings and the respondent has incurred £[] in legal costs in relation to these proceedings and the applicant and the respondent have been informed of these figures by their respective legal representatives.

5. Agreements

The parties have agreed that:-

[set out what agreements, if any, have been reached about, for example, asset values]

IT IS ORDERED BY CONSENT THAT:-

6. The First Appointment listed on [] is hereby vacated on the basis that the court is satisfied that its duties pursuant to Family Procedure Rules 2010, Rule 9.15 have been satisfied by its scrutiny of the documents referred to above.
7. The case is listed for a Financial Dispute Resolution (FDR) hearing at [] on [] (time estimate: one hour). The parties and their legal representatives (if any) must attend court at least one hour before this time to negotiate.
8. The court exercises its powers under Family Procedure Rules 2010, Rule 9.15(8) to permit the parties not to attend the First Appointment hearing.
9. There be the following further directions:-

[]

Dated